

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

UNITED STATES OF AMERICA

) Magistrate Docket No. **'08 MJ 0858** 9:45

Plaintiff

v.

Oscar MARTINEZ MARTINEZ
AKA: Luciano Munoz TORRES

)
)
)
) COMPLAINT FOR
) VIOLATION OF:
) **TITLE 18 U.S.C. § 1544**
) **Misuse of Passport (Felony)**
)
)
)
)

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DEPUTY

The undersigned complainant, being duly sworn, states:

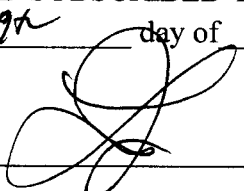
On or about March 18, 2008, within the Southern District of California, defendant Oscar MARTINEZ MARTINEZ did knowingly and willfully use a passport issued or designed for the use of another, with the intent to gain admission into the United States in the following manner, to wit: Defendant applied for entry to the United States by presenting US passport number 038782294 issued in the name Luciano Munoz TORRES, to a Department of Homeland Security, Customs and Border Protection Officer, knowing full well that he was not Luciano Munoz TORRES, that the passport was not issued or designed for his use, and that he is not a United States citizen entitled to a U.S. Passport; in violation of Title 18, United States Code, Section 1544.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



Richard M. Escott
Senior Special Agent
U.S. Department of State
Diplomatic Security Service

SWORN AND SUBSCRIBED TO before me

This 19th day of March, 2008.


UNITED STATES MAGISTRATE JUDGE

PROBABLE CAUSE STATEMENT & STATEMENT OF FACTS

I, Richard Michael Escott, being duly sworn, declare under penalty of perjury that the following statement is true and correct:

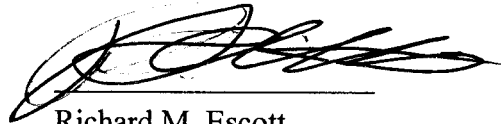
1. I am a Senior Special Agent (SSA) with the U.S. Department of State, Diplomatic Security Service (DSS) assigned to the San Diego, CA Resident Office. I have been so employed for eight years and have investigated numerous violations involving the false application for and misuse of United States Passports and Visas.
2. During the performance of my duties, I have obtained evidence that Oscar MARTINEZ MARTINEZ used the passport issued and designed for the use of another. This Affidavit is made in support of a complaint against DEFENDANT for violations of Title 18, U.S.C., Section 1544, Misuse of a Passport.
3. On 03/18/2008, at approximately 1500 hours, DEFENDANT presented himself to a Department of Homeland Security, Customs and Border Protection (CBP) Officer at the vehicle lines of the San Ysidro Port of Entry, to apply for admission into the United States. DEFENDANT was the driver of a vehicle who identified himself with U.S. Passport number 038782294 bearing the name Luciano Munoz TORRES, DPOB 06/25/1980, California, U.S.A., and a photograph that was not DEFENDANT. The vehicle contained a passenger who was subsequently determined to be undocumented. The DEFENDANT was escorted to secondary inspection.
4. On 03/18/2008, at approximately 1600 hours the Affiant was advised by a CPB Officer at the San Ysidro POE that DEFENDANT had been detained at the secondary inspection area of the San Ysidro POE.
5. Affiant conducted record checks of a U.S. State Department database and found that the passport that DEFENDANT used had not yet been reported lost/stolen.
6. On 03/18/2008, at approximately 2030 hours, DEFENDANT was retrieved from the Port Enforcement Team secondary inspection area and was brought to an interview room. The Affiant assisted by a CBP Officer, who also acted as translator, obtained consent from DEFENDANT to have his interview audio and video taped. DEFENDANT was read his Miranda warning aloud in Spanish from a written copy. He indicated that he understood and waived his right to counsel. He admitted that his true name was Oscar MARTINEZ MARTINEZ, DPOB 01/30/1985, Chiapas, Mexico. He stated that he was a citizen of Mexico and not a citizen of the United States. DEFENDANT admitted that on or about 03/18/2008 he agreed to drive a vehicle containing an undocumented person with a false entry document in exchange for a false U.S. Passport and a \$2,500 discount for being smuggled. DEFENDANT admitted that he promised to pay a smuggler \$1,500 for the U.S. Passport and to be smuggled to the Washington, DC area. The smuggler provided the U.S. Passport of Luciano Munoz

TORRES, DOB 06/25/1980, and the vehicle to smuggle the DEFENDANT and his passenger. He admitted that he subsequently used that passport to apply for entry into the United States at the San Ysidro Port of Entry on or about 03/18/2008. He admitted knowing that the passport was not issued or designed for his use and that it was a violation of US law to use a passport in the name of another. DEFENDANT admitted knowing that the passenger did not have legal documents to enter the U.S.; in fact, the DEFENDANT stated that he knew the passenger's documents were false.

7. DEFENDANT admitted that on each of the previous six occasions he had been arrested at the border, 12/12/2007, 12/27/2007, 01/05/2008, 01/14/2008, 01/23/2008, and 02/06/2008, he had attempted to smuggle other undocumented persons for the same smuggling organization under a similar arrangement, each time using false documents to apply for entry into the U.S..

8. DEFENDANT made a recorded oral confession as to his true identity and to elements of the charge. DEFENDANT said that he had previously been living illegally in the United States from 2000-2008.

On the basis of the facts presented in this probable cause statement consisting of 2 pages, I find probable cause to believe that the defendant named in this probable cause statement committed the offense on or about 03/18/2008 - in violation of Title 18, United States Code, Section 1544: Misuse of a passport - when he knowingly and willfully used the passport belonging to another, Luciano Munoz TORRES, knowing that it was not issued or designed for his use, in order to gain admission into the United States.



Richard M. Escott
Senior Special Agent
U.S. Department of State
Diplomatic Security Service